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February 15, 2023

**VIA ECF**

Honorable Mary Kay Vyskocil  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re:   *Elizabeth Berry v. Mediacom Communications Corp.*,  
Case No. 22-CV-5183 (MKV)  
**Second Amended Letter Motion for Approval of Settlement****

Dear Judge Vyskocil:

We submit this Second Amended Letter Motion to address the issues raised by the Court in its January 26, 2023 Order. *See* ECF No. 25. This firm represents Defendant in the above referenced action. We write, jointly with counsel for Plaintiff, to request approval of the Amended Settlement Agreement in the above Fair Labor Standards Act (“FLSA”) and New York Labor Law (“NYLL”) action. *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206 (2d Cir. 2015). The fully executed Amended Settlement and Release Agreement (“Amended Agreement”) is attached hereto as Exhibit A.

The Amended Agreement provides for a total settlement of \$3,333.33. Plaintiff will receive \$2,000.00 and Plaintiff’s counsel, Johnson Becker PLLC, will receive \$1,333.33 for attorneys’ fees and costs. This is reduced from a total settlement of \$7,500.00.

The Parties rely on their previous submissions in support of this request for settlement approval. *See* ECF Nos. 22 and 24. The Court’s January 26, 2023 Order approved the proposed payment of \$2,000.00 to Plaintiff. *See* ECF No. 25, pp. 1–2. In accordance with the Court’s Order that Plaintiff’s Counsel was entitled to only 40% of the total settlement amount for attorneys’ fees and costs pursuant to their retainer agreement, the parties re-negotiated their settlement whereby Plaintiff will recover 60% of the total settlement amount. This is equal to the previously approved \$2,000.00. The remainder, \$1,333.33, will be paid to Plaintiff’s Counsel for attorneys’ fees and costs according to Plaintiff’s retainer agreement with her attorneys.

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**Conclusion**

For the reasons set forth above, the Parties jointly request that the Court approve the Amended Settlement Agreement.

Thank you for your time and consideration of this request.

Respectfully submitted,

*/s/ James F. Horton*

James F. Horton

cc: All Counsel (via ECF)